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Response dated 19 May 2003  
Response to final Office action mailed 11 April 2003

### **Remarks and Arguments**

This response fully addresses the issues raised in the aforementioned final Office action. A detailed discussion of each issue is provided in the sections that follow. No new matter has been added by this response.

### **Request for Admission of Amendment After Final Action**

The admission in accordance with 37 C.F.R. 1.116 of the claim amendments of this response is respectfully requested. It is believed that the amendments place the subject Application in condition for allowance. The clarification provided in the final Office action in the Examiner's response to the previous arguments was very helpful, especially the explanation that the rejections were based on the absence of clearly structural language in the claims.

### **Telephone Interview**

The informative telephone interview conducted on 15 May 2003 was also helpful. During this interview, the discussion confirming the reasoning behind the rejections, as mentioned above, was particular helpful.

### **Support for Claim Amendments**

Claim 4 has been amended in this response to simplify its form and thereby make it more easily readable. Also, the word "device" has been added into the term "active external change aid device" in order to make the wording of the preamble of this claim consistent with that of the other pending claims. Support for the addition of the word "device" is found in the specification, including on page 3 at lines 29 and 30, where it is recited that "[a]n active external change aid is a device that performs a useful function on an article worn primarily external to the wearer's body." Support for the specific recitation of the "effect generating element comprising a magnet, an air jet, or a thermal cell" is found in the previous wording of this claim, as well as in the specification, including on page 7 at lines 2 (air jet) and 17 (magnet) and on page 10 at line 8 (thermal cell).

Claim 19 has been amended in this response to add the word "device" into the term "active external change aid device" in order to clarify that the meaning of this term in the claim is intended to be the same as its definition in the specification on page 3 at lines 29 and 30. Also,

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this claim has been amended to simplify its wording and to use the same "capable of" wording used in Claim 4, which it is respectfully submitted is more descriptive than the previous wording.

Claims 20 through 25 have been amended in this response to conform the wording of their preambles to that of Claim 19, from which they depend, by adding the word "device" into the term "active external change aid device". In addition, each of these claims has been amended to use the same "capable of" wording used in Claim 4 and in the amended Claim 19.

#### **Claim Rejections Under 35 U.S.C. § 102(b)**

##### **Perotta et al.**

In the subject final Office action, Claims 19, 20, 24, and 25 were rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 4,117,841 to Perotta et. al. The rejection stated that a person using the bandage disclosed in the Perotta et. al. reference could be the claimed effect generating element of the active external change aid.

The preambles of the rejected claims have been amended to recite an "active external change aid device", thereby precluding a human person from being or acting as the claimed invention, given the dictionary definition of a device as "a piece of equipment or a mechanism designed to serve a special purpose or perform a special function" (Merriam-Webster® Dictionary on-line 13 May 2003)

Accordingly, it is respectfully requested that the rejections under 35 U.S.C. 102(b) of Claims 19, 20, 24, and 25 be reconsidered and withdrawn.

##### **LaVon et al.**

In the subject final Office action, Claims 19 through 21, 24, and 25 were rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,330,459 to LaVon et. al. The rejection stated that a person using the diaper disclosed in the LaVon et. al. reference could be considered the claimed external change aid.

The preambles of the rejected claims have been amended to recite an "active external change aid device", thereby precluding a human person from being or acting as the claimed invention, given

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the dictionary definition of a device as "a piece of equipment or a mechanism designed to serve a special purpose or perform a special function" (Merriam-Webster<sup>®</sup> Dictionary on-line 13 May 2003)

Accordingly, it is respectfully requested that the rejections under 35 U.S.C. 102(b) of Claims 19 through 21, 24, and 25 be reconsidered and withdrawn.

Hasse

In the subject final Office action, Claims 19 through 21, 23, and 24 were rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,769,832 to Hasse. The rejection stated that a person using the diaper disclosed in the Hasse reference could be considered the claimed external change aid.

The preambles of the rejected claims have been amended to recite an "active external change aid device", thereby precluding a human person from being or acting as the claimed invention, given the dictionary definition of a device as "a piece of equipment or a mechanism designed to serve a special purpose or perform a special function" (Merriam-Webster<sup>®</sup> Dictionary on-line 13 May 2003)

Accordingly, it is respectfully requested that the rejections under 35 U.S.C. 102(b) of Claims 19 through 21, 23, and 24 be reconsidered and withdrawn.

**Statement of Allowable Subject Matter**

In the subject final Office action, it was stated that Claim 4 was allowable in its previous form. As noted above, Claim 4 has been amended in this response, but in a way that does not affect its allowability.

In the subject final Office action, it was also stated that Claim 22 would be allowable if rewritten. As discussed in the telephone interview on 15 May 2003, the reference in the subject Office action to a rejection of this claim under 35 U.S.C. 112 was inadvertent and so no response to that aspect is required. With regard to the inclusion of the limitations of Claim 19, from which Claim 22 depends, as discussed in the same telephone interview, it is believed that the amendment of

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Claim 19 and of Claim 22 to specify that the claimed invention is a device serves to make Claim 22 allowable in its present form.

#### Summary of Response

In light of the above amendments and remarks, it is requested that the claim rejections be reconsidered and withdrawn and that the pending claims be allowed. The issuance of a Notice of Allowance at an early date is respectfully requested.

Respectfully submitted,

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19 May 2003

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